

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

**GABRIELLA S.,**

**Plaintiff,**

**vs.**

**CIV NO. 2:24-cv-00651-KRS**

**CAROLYN W. COLVIN,<sup>1</sup>**

**Acting Commissioner of Social Security,**

**Defendant.**

**ORDER GRANTING STIPULATED MOTION FOR ATTORNEY FEES  
UNDER THE EQUAL ACCESS TO JUSTICE ACT**

Upon consideration of the Stipulated Motion for Award of Attorney Fees Under the Equal Access to Justice Act, the Court finds the Motion (Doc. 18) should be **GRANTED**.

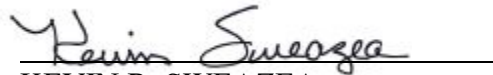
IT IS THEREFORE ORDERED that Plaintiff is awarded attorney fees in the amount of \$8,000.00 under the Equal Access to Justice Act (“EAJA”), 28 U.S.C. § 2412, as the prevailing party herein. If Plaintiff’s counsel is subsequently awarded any fees pursuant to 42 U.S.C. § 406(b), he must refund the smaller award to Plaintiff pursuant to *Weakley v. Bowen*, 803 F.2d 575, 580 (10th Cir. 1986).

IT IS FURTHER ORDERED that if, after receiving the Court’s EAJA fee Order, the Commissioner (1) determines upon effectuation of the Court’s EAJA fee order that Plaintiff does not owe a debt that is subject to offset under the Treasury Offset Program, and (2) agrees to waive

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<sup>1</sup> Carolyn Colvin became the Acting Commissioner of Social Security on November 30, 2024. Pursuant to Rule 25(d) of the Federal Rules of Civil Procedure, Carolyn Colvin should be substituted for Martin O’Malley as the defendant in this suit. No further action need be taken to continue this suit by reason of the last sentence of section 205(g) of the Social Security Act, 42 U.S.C. § 405(g).

the requirements of the Anti-Assignment Act, the fees will be made payable to Plaintiff's attorney. However, if there is a debt owned under the Treasury Offset Program, the Commissioner cannot agree to waive the requirements of the Anti-Assignment Act, and the remaining EAJA fees after offset will be paid by a check made out to Plaintiff but delivered to Plaintiff's attorney.

A handwritten signature in dark ink, appearing to read "Kevin Sweazea", is written over a horizontal line.

KEVIN R. SWEAZE

UNITED STATES MAGISTRATE JUDGE